

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

	)	
	)	<b>Order No.: WI-2012-9000-ROOSC</b>
<b>WTSA US EXPRESS LLC.</b>	)	
<b>USDOT 1814463</b>	)	<b>Service</b>
	)	<b>Date:</b> _____
<b>TJA EXPRESS TRANSPORTATION</b>	)	
<b>USDOT 2115891</b>	)	<b>Time:</b> _____
	)	
<b>WOLF TRUCKING COMPANY LLC</b>	)	<b>Person Served:</b> _____
<b>USDOT 2275204</b>	)	

**OPERATIONS OUT-OF-SERVICE**

**AND**

**RECORD CONSOLIDATION ORDER**

The United States Department of Transportation (USDOT), Federal Motor Carrier Safety Administration (FMCSA), issues this **Operations Out-of-Service Order and Record Consolidation Order (ORDER)** pursuant to 49 C.F.R. § 386.73.<sup>1</sup>

**IT IS ORDERED** that WTSA US Express LLC (USDOT 1814463), TJA Express Transportation (USDOT 2115891) and Wolf Trucking Company LLC (USDOT 2275204) (hereinafter collectively referred to as "You" "Your" and "RESPONDENTS") will **CEASE ALL OPERATION OF ANY COMMERCIAL MOTOR VEHICLES IN INTERSTATE AND INTRASTATE COMMERCE IN THE UNITED STATES.**

**IT IS FURTHER ORDERED** that all records maintained by FMCSA, including safety, performance, compliance and enforcement records, related to the motor carrier operations of WTSA

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<sup>1</sup> A copy of 49 C.F.R. Part 386 is enclosed with this ORDER.

US Express LLC (USDOT 1814463), TJA Express Transportation (USDOT 2115891) and Wolf Trucking Company LLC (USDOT 2275204) will be permanently consolidated.

## **I. EFFECTIVE DATE OF ORDER**

This ORDER becomes a Final Agency Order and is effective on JUNE 28, 2012, the twenty-first (21<sup>st</sup>) day after service of this ORDER, unless a request for administrative review is served and filed in accordance with the requirements of 49 C.F.R. § 386.73(g).

## **II. JURISDICTION**

RESPONDENTS operate or have operated as for-hire motor carriers as defined in 49 U.S.C. § 13102 *transporting* property in interstate commerce using commercial motor vehicles. Accordingly, RESPONDENTS are subject to the jurisdiction of the FMCSA and Federal motor carrier safety statutes and regulations, *including* the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 C.F.R. Parts 350-399, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31144, 31135 *and* 31306). RESPONDENTS are required to comply with, and ensure that their *drivers* comply with, applicable federal statutes and regulations including 49 C.F.R. Parts 40 and 350-399. (*See* 49 C.F.R. §§ 390.3 and 390.11).

## **III. BASIS FOR ORDER**

In issuing this ORDER, the Field Administrator for FMCSA's Midwestern Service Center, in accordance with 49 C.F.R. § 386.73, has determined that RESPONDENTS have operated or attempted to operate under a new identity or as affiliated entities to (i) avoid complying with an FMCSA order; (ii) avoid a statutory or regulatory requirement; (iii) avoid paying a civil penalty; (iv) avoid responding to an enforcement action; and/or (v) avoid a negative compliance history. Accordingly, the Field Administrator finds:

A. T&B Transportation is currently inactive and has not operated since approximately 2008.

B. The motor carrier entities of TJA Express Transportation and Wolf Trucking Company LLC are merely continuations of WTSA US Express. WTSA US Express, TJA Express Transportation and Wolf Trucking Company are the same motor carrier operation. TJA Express Transportation and Wolf Trucking are simply the motor carrier operations of WTSA US Express under different names.

C. The motor carrier entity of WTSA US Express LLC was created on September 24, 2008. TJA Express Transportation was created on January 31, 2011.

D. WTSA US Express was closed down and "deactivated" by the owner to avoid submitting to a mandatory safety review triggered by the carrier's high "fatigued driving" and "drug and alcohol violation" scores. Operations continued under the name of TJA Express Transportation.

E. WTSA US Express LLC was "reactivated" in order to avoid a New Entrant Out-of-Service Order and Order to Cease all Interstate Transportation that was served on TJA Express.

F. Between deactivating WTSA in January 2012 and reactivating WTSA in March of 2012, Wolf Trucking Company was created to serve as a hedge against FMCSA enforcement actions against WTSA US Express and TJA Express Transportation.

#### **IV. FINDINGS OF FACT**

1. On September 24, 2008, Tadeusz Wrzesniewski submitted an MCS-150 for a U.S. DOT Number (1814463) in the name of WTSA US Express LLC. On January 31, 2011, Wrzesniewski also submitted an MCS-150 for a U.S. DOT Number (12115891) in the name of TJA Express. The addresses are the same, and Wrzesniewski is listed as the "owner" for both companies.

2. Between November 19, 2010 and March 25, 2011, WTSA US Express accumulated CSA Safety System Measurement ("SMS"<sup>2</sup>) alerts for "fatigued driving" and "drug and alcohol violations" as determined by roadside inspection activity. This caused WTSA to reach a mandatory carrier threshold that required a safety review of the company.

3. In 2011, when Wisconsin Special Agent and Safety Investigator John Seidl contacted WTSA US Express to arrange for a safety review, Wrzesniewski completed an MCS-150 declaring that the carrier was out of business.

4. On January 30, 2012, Wrzesniewski "deactivated" WTSA US Express with FMCSA. Safety investigators contacted TJA Express to conduct a new entrant safety audit. The safety audit was converted to a full safety review with the goal of determining a possible chameleon carrier relationship between WTSA and TJA Express. TJA Express refused to submit to the safety audit/safety review.

5. On March 5, 2012, a New Entrant Out-of-Service Order and Order to cease all interstate transportation was served on Wrzesniewski and TJA Express. Rather than comply, on March 12, 2012, Wrzesniewski submitted yet another MCS-150 to reactivate U.S. DOT Number (1814463) and WTSA US Express LLC.

6. Finally, between deactivation of WTSA in January 2012 and the reactivation of WTSA in March of 2012, Wrzesniewski created yet a third motor carrier. Thus, on February 21, 2012, Wrzesniewski submitted an MCS-150 for a U.S. DOT Number (2275204) in the name of Wolf Trucking Company. The identified address is the same as for WTSA and TJA Express.

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<sup>2</sup> The SMS is a tool for assessing available roadside performance data and ranking an entity's relative performance in any of six Behavior Analysis and Safety Improvement Categories (BASICS). The SMS quantifies the on-road safety performance of individual entities to identify entities with significant safety problems, determine the specific safety problems, and monitor safety problems through the Intervention Process.

7. In a signed statement provided to John Seidl, a Special Agent and Safety Investigator for the Wisconsin Division of the Federal Motor Carrier Safety Administration, Tadeusz Wrzesniewski specifically admitted reactivating U.S. DOT Number (1814463) for WTSA US Express LLC because FMCSA issued the New Entrant Out of Service Order and Order to Cease Interstate Transportation on TJA Express.

8. On September 24, 2008, Tadeusz Wrzesniewski submitted an MCS-150 for a U.S. DOT Number (1814463) in the name of WTSA US Express LLC. WTSA US Express LLC registered with the Wisconsin Department of Financial Institutions on September 25, 2008. On January 31, 2011, Wrzesniewski also submitted an MCS-150 for a U.S. DOT Number (2115891) in the name of TJA Express. The addresses are the same, and Wrzesniewski is listed as the "owner" for both companies.

9. WTSA US Express was "deactivated" by Tadeusz Wrzesniewski on January 30, 2012. (However, WTSA US Express remains in good standing with the State of Wisconsin to this date.) TJA Express refused to submit to the safety audit/safety review and on March 5, 2012, a New Entrant Out-of-Service Order and Order to Cease all Interstate Transportation was served on Wrzesniewski and TJA Express. WTSA US Express LLC (1814463) was reactivated with FMCSA by Wrzesniewski on March 12, 2012. Finally, between deactivation of WTSA in January 2012 and the reactivation of WTSA in March of 2012, Wrzesniewski created yet a third motor carrier. Thus, on February 21, 2012, Wrzesniewski submitted an MCS-150 for a U.S. DOT Number (2275204) in the name of Wolf Trucking Company.

10. Tadeusz Wrzesniewski is listed as the registered agent for WTSA US Express in Wisconsin public records (no managing member is listed) and as the "owner" on the original MCS-150 filed with FMCSA on August 24, 2008. Tadeusz Wrzesniewski is listed "president" on the MCS-150 filed with FMCSA to create TJA Express Transportation. Adrian Wrzesniewski, his son, is also listed as the "president." The March 12, 2012 MCS-150 used to reactivate WTSA

US Express lists Tadeusz Wrzesniewski as “owner.” The February 21, 2012 MCS-150 submitted to FMCSA to create Wolf Trucking lists Tadeusz Wrzesniewski as “president.”

11. In a signed statement provided to John Seidl, a Special Agent and Safety Investigator for the Wisconsin Division of the Federal Motor Carrier Safety Administration, on May 30, 2012, Tadeusz Wrzesniewski identified himself as the president of WTSA US Express (USDOT 1814463).

12. On May 31, 2012, Tadeusz Wrzesniewski provided a sworn statement to John Seidl, a Special Agent and Safety Investigator for the Wisconsin Division of the Federal Motor Carrier Safety Administration, in which Wrzesniewski specifically admitted that he created TJA Express Transportation because the original WTSA US Express (prior to deactivation) had accumulated high safety scores and was scheduled for a safety review. He further admitted that he subsequently reactivated WTSA US Express LLC, U.S. DOT Number 1814463, when he learned that FMCSA issued a New Entrant Out of Service Order on TJA Express.

13. According to the MCS-150s Tadeusz Wrzesniewski filed for WTSA US Express, TJA Express Transportation and Wolf Trucking, the mailing address for each carrier is 1002 Oregon Street, Racine Wisconsin. This comports with what little information Wrzesniewski filed with the Wisconsin Department of Financial Institutions. The business telephone for WTSA US Express is (262) 635-0369. TJA Express and Wolf Trucking share (262) 619-4007 for an office number and (262) 619-4015 for fax communication.

14. WTSA US Express, TJA Express Transportation and Wolf Trucking utilize 1002 Oregon Street, Racine, Wisconsin to conduct business.

15. WTSA US Express, TJA Express Transportation and Wolf Trucking transport refrigerated foods, fresh produce and general freight.

16. Records available to FMCSA show that commercial motor vehicles being operated under the names and USDOT numbers of TJA Express Transportation and Wolf Trucking are also operated under the WTSA US Express name and USDOT number.

17. Records available to FMCSA show that *drivers* operating commercial motor vehicles under the names and USDOT numbers of TJA Express Transportation and Wolf Trucking also operate commercial motor vehicles under the name and USDOT number of WTSA US Express.

18. Tadeusz Wrzesniewski did not possess any documentation regarding the use and/or transfer of assets, including any purchase or transfer agreement and/or documentation of consideration for the use or transfer of assets, between WTSA US Express, TJA Express Transportation or Wolf Trucking. Tadeusz Wrzesniewski never stated to investigators that an asset transfer ever occurred.

## **V. RIGHT TO PETITION FOR ADMINISTRATIVE REVIEW**

You may petition for administrative review of this ORDER in accordance with 49 C.F.R. § 386.73(g). Administrative review is limited to contesting factual or *procedural* errors in the issuance of this ORDER. A petition for administrative review must be made in writing and must be served within 15 days of the date the Field Administrator served this ORDER. Failure to timely request administrative review waives the right to administrative review and constitutes an admission of the facts alleged in the ORDER. If a petition for administrative review is timely served, this ORDER will be stayed pending review unless the Assistant Administrator enters an order vacating the automatic stay for good cause shown in accordance with 49 C.F.R. § 386.73(g)(8). If you timely serve and file a petition for administrative review, you may supplement the petition by serving documentary evidence and/or written argument that supports your position regarding the procedural or factual issues in dispute no later than 30 days from the date this ORDER was served. The supplementary documentary evidence or written argument may not expand the issues on review and need not address every issue in the petition. Failure to timely serve supplementary documentary evidence and/or written argument constitutes a waiver of your right to do so.

A petition for administrative review must include a copy of this ORDER, and a statement of all factual and procedural issues in dispute. A petition for administrative review must be made in writing and served on the Assistant Administrator by mail, personal service, or commercial delivery service to:

Assistant Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001  
Attention: Adjudications Counsel

or by electronic mail (email) to [FMCSA.Adjudication@dot.gov](mailto:FMCSA.Adjudication@dot.gov)

A copy of any petition for administrative review and/or any supplementary documentation or argument served on the Assistant Administrator must also be sent by mail, personal service, or commercial delivery to:

Field Administrator, Midwestern Service Center  
Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, 300A  
Matteson, Illinois 60443

A petition for administrative review that does not identify factual or procedural errors in the issuance of the ORDER will be dismissed. A petition for administrative review under 49 C.F.R. § 386.73(g) may not be submitted to demonstrate corrective action. The Assistant Administrator's decision on a petition for administrative review constitutes the Final Agency Order in the proceeding. Failure to timely request administrative review of this ORDER will constitute a waiver of the right to contest the ORDER, and will result in the ORDER becoming a Final Agency Order on the twenty-first (21<sup>st</sup>) day after service of this ORDER.

## **VI. PETITION FOR RESCISSION OF ORDER**

In accordance with 49 C.F.R. § 386.73(h), you may petition to rescind the Operations Out-of-Service Order if you have taken action to correct the deficiencies that resulted in the Order. A



petition for rescission must be made in writing to FMCSA's Field Administrator for the Midwestern Service Center. The petition for rescission must include a copy of this ORDER, a factual statement identifying all corrective action taken, and copies of supporting documentation. Any petition for rescission must be directed to the Field Administrator, Midwestern Service Center, at the following address:

Field Administrator, Midwestern Service Center  
Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, 300A  
Matteson, Illinois 60443

In accordance with 49 C.F.R. § 386.73(h)(4), the Field Administrator will issue a written decision on a petition for rescission within 60 days of the service date of the petition. If the Field Administrator grants the request for rescission, the written decision is the Final Agency Order. If the Field Administrator denies the request for rescission, you may file a petition for administrative review of the denial with the Assistant Administrator, Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. § 386.73(h)(6). A petition for administrative review of a denial of a request for rescission must be served and filed within 15 days of the service date of the decision denying the request for rescission. The petition for administrative review of the denial of a request for rescission must be in writing, and must identify the disputed factual or procedural issues related the denial of the petition for rescission. A petition for administrative review of a denial of a request for rescission may not challenge the underlying basis of the order for which rescission was sought.

RESPONDENTS are subject to this ORDER unless and until the ORDER, or any part of the ORDER, is rescinded in writing by the Field Administrator.

**You cannot avoid this Operations Out-of-Service Order by continuing operations under the name of another person, company or entity. Any lease of equipment and/or direct assignment of contracts or other arrangements require the written approval of the Field Administrator for the Midwestern Service Center.**

## **VII. FAILURE TO COMPLY**

Violation(s) of this ORDER may result in penalties of not more than \$16,000 for each day the operation in violation of this ORDER continues after the effective date of the out-of-service order. Failure to comply with the provisions of this ORDER may also result in an action in the United States District Court for equitable and/or declaratory relief and civil penalties.

## **VIII. PENALTIES FOR VIOLATIONS**

Penalty provisions for violations of federal statutes and regulations are separate and distinct from penalties for violations of this ORDER. This ORDER is in addition to, and does not supersede, amend, or modify, any other orders or notices in any other case or proceeding. FMCSA may assess penalties for violations of federal statutes and regulations, including the FMCSRs, as well as for violations of FMCSA Orders and prohibitions. RESPONDENTS have ongoing responsibility for compliance with all applicable provisions of Federal statute and regulations, including the Federal Motor Carrier Safety Regulations. The duties imposed by this Order are in addition to the duties imposed by applicable statute and regulations. Nothing in this Order will be construed to waive or modify any Federal statutory or regulatory requirement and compliance with the terms and conditions of this Order does not excuse any failure to comply with any such requirement.

Penalties may be *assessed* for violations previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

**IX. OTHER ORDERS UNAFFECTED**

This ORDER is in addition to, and does not amend or supersede any other Order, prohibition, or requirement to which RESPONDENTS are or may become subject.

Date: \_\_\_\_\_

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Darin G. Jones, Field Administrator  
Midwestern Service Center  
United States Department of Transportation  
Federal Motor Carrier Safety Administration